IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 21.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal Nos.2922 to 2925 of 2001

C.J.Paul ... Appellant in WA.2922/2001

V.M.Mary ... Appellant in WA.2923/2001

C.P.Jos ... Appellant in WA.2924/2001

C.J.Mathews ... Appellant in WA.2925/2001

Vs.

1.The District Collector,
Ooty, The Nilgiris.

2.The Deputy Collector(Stamps),
Collectorate Office compound,
coimbatore-641 018.

3.The Inspector General of Registration,
O/o The Inspector General of Regn.
120, Santhome High Road,
Chennai-600 028.

4.The State of Tamil Nadu,
rep. by its Secretary & Commissioner,
Revenue Department,
Fort St. George,
Chennai-600 009. .. Respondents in all WPs.

Writ appeals filed under Clause 15 of the Letters Patent against the common order dated 14.09.2001 made in W.P.Nos.13698 to 13701 of 2001 presented to this Court under Article 226 of the constitution of India to issue a writ of certiorarified Mandamus calling for the records of the second respondent in Mu.Pa.En. 82,83,81 & 84 of 1998 dated 07/06/1998 and quash the same.

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For Appellant : Mr.R.Thyagarajan, SC.,for
in all WAs. Mr.M.Muthappan

For respondents : Mr.A.Edwin Prabhakar
in all WAs. Government Advocate

COMMON JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

Aggrieved by the common order dated 14.09.2001 of the learned single Judge made in W.P.Nos.13698 to 13701 of 2001, the writ petitioners have filed the above appeals.

2. Heard the learned Senior Counsel for the appellants as well as the learned Government Advocate for the respondents.

3. It is not in dispute that the appellants/petitioners have purchased the properties and registered the documents in the Office of the Sub Registrar, Kalpetta, Kerala State. All the items of properties, particularly described in the first schedule, lying in Devala village, Gudalur Taluk, Nilgiris, Tamil Nadu State. On receipt of the notices from the Deputy Collector (Stamps), Coimbatore, the appellants/petitioners have approached this Court by way of writ petitions, for quashing the same on various grounds. The learned single Judge, after finding that the proceedings initiated by the authority in Tamil Nadu are well within the time prescribed and there is no delay as claimed by the appellants/petitioners, has dismissed all the writ petitions. Questioning the same, present appeals have been filed.

4. At the foremost, learned Senior Counsel for the appellants pointed out that though the documents were registered on 01.02.1990, notices were sent to the appellants only on 07.06.1998 i.e., nearly after eight years and in view of the statutory provisions viz., Section 47-A of the Indian Stamp Act, 1899 (hereinafter referred to as "the Act"), the same cannot be sustained. He also contended that in view of the fact that even the extended period of limitation viz., five years, was introduced only with effect from 06.03.2000, the same cannot be applied retrospectively to the case on hand, when the documents were registered as early as on 01.02.1990. These aspects were considered by the learned single Judge with reference to the statutory provisions viz., 47-A (3) and (5) of the Act read with Rules 9 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. It is useful to refer Section 19-B (1) of the Act, which reads as follows:

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"Where any instrument is registered in any part of India other than the State of Tamil Nadu and such instrument relates, wholly or partly to any property situate in the State of Tamil Nadu, the copy of such instrument shall, when received in the State of Tamil Nadu under the Registration Act, 1908 (Central Act XVI of 1908), be liable to be charged with the difference of duty as on the original instrument."

5. It is not in dispute that the properties covered under the documents lie within the State of Tamil Nadu. But the documents were registered at Kalpetta, Kerala State. As per Section 19-B(1) of the Act, unless such instrument is received in the State of Tamil Nadu, no action can be taken for undervaluation. The learned single Judge, by relying on the said provision and after noting that those documents registered in February, 1990, were received by the office of the Sub Registrar, Gudalur only on 30.03.1996 and the proceedings were initiated under Section 19-B of the Act and further proceedings for reference were made on 05.05.1998, has arrived at a conclusion that the action taken by the authority is not barred by limitation. On going through the relevant provision, particularly, Section 19-B(1) of the Act and of the factual information that those documents were registered at Kerala in February 1990, were received by the Office of the Sub Registrar, Gudalur only on 30.03.1996, we are in entire agreement with the conclusion arrived at by the learned single Judge. Accordingly, finding no merits, we dismiss all the writ appeals. No costs.

raa

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1.The District Collector,
Ooty, The Nilgiris.

2.The Deputy Collector(Stamps),
Collectorate Office compound,
coimbatore-641 018.

3.The Inspector General of Registration,
O/o The Inspector General of Regn.
120, Santhome High Road,
Chennai-600 028.

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4.The Secretary & Commissioner to
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-600 009. ``

+ One cc to Mr. T. susindran Advocate SR 57182.

+ One cc to Addl Govt Pleader SR 56599.

NA (co)
sg 29/12/2006.

W.A.Nos.2922 to 2925 of 2001

21.11.2006

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